

**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

In the Matter of	)	File Number EB-02-OR-0202
	)	
WCPC Broadcasting Co., Inc.	)	NAL/Acct. No. 200232620010
Licensee of AM Radio Station WCPC	)	
Houston, Mississippi	)	FRN 0003-7893-85
	)	

**NOTICE OF APPARENT LIABILITY FOR FORFEITURE**

**Released: August 21, 2002**

By the Enforcement Bureau, New Orleans Office:

**I. INTRODUCTION**

1. In this *Notice of Apparent Liability for Forfeiture* (“NAL”), we find WCPC Broadcasting Co., Inc., licensee of AM radio station WCPC, Houston, Mississippi, apparently liable for a forfeiture in the amount of seven thousand dollars (\$7,000) for willful and repeated violation of Section 73.49 of the Commission’s Rules (“Rules”).<sup>1</sup> Specifically, we find WCPC Broadcasting Co., Inc. apparently liable for failing to enclose four of its antenna structures within effective locked fences or other enclosures.

**II. BACKGROUND**

2. On June 27, 2002, agents from the FCC Enforcement Bureau’s New Orleans Field Office inspected the antenna structures of radio station WCPC(AM), Houston, Mississippi. The agents observed that there was no fence around one antenna structure, broken fencing around a second structure, and missing fencing sections around two other antenna structures. All antenna structures had radio frequency potential at the base.

**III. DISCUSSION**

3. Section 73.49 of the Rules requires that antenna towers having radio frequency potential at the base be enclosed within effective locked fences or other enclosures. On June 27, 2002, four of WCPC’s antenna towers were not enclosed within effective locked fences or other enclosures.

4. Based on the evidence before us, we find that on June 27, 2002, WCPC Broadcasting Co., Inc. willfully<sup>2</sup> and repeatedly<sup>3</sup> violated Section 73.49 of the Rules by failing to provide effective locked fences

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<sup>1</sup> 47 C.F.R. § 73.49.

<sup>2</sup> Section 312(f)(1) of the Act, 47 U.S.C. § 312(f)(1), which applies to violations for which forfeitures are assessed

or other enclosures around their antenna structures.

5. Pursuant to Section 1.80(b)(4) of the Rules, the base forfeiture amount for AM tower fencing violations is \$7,000.<sup>4</sup> In assessing the monetary forfeiture amount, we must also take into account the statutory factors set forth in Section 503(b)(2)(D) of the Communications Act of 1934, as amended (“Act”), which include the nature, circumstances, extent, and gravity of the violation, and with respect to the violator, the degree of culpability, any history of prior offenses, ability to pay, and other such matters as justice may require.<sup>5</sup> Considering the entire record and applying the factors listed above, this case warrants a \$7,000 forfeiture.

#### IV. ORDERING CLAUSES

6. Accordingly, IT IS ORDERED THAT, pursuant to Section 503(b) of the Act,<sup>6</sup> and Sections 0.111, 0.311 and 1.80 of the Rules,<sup>7</sup> WCPC Broadcasting Co., Inc. is hereby NOTIFIED of this APPARENT LIABILITY FOR A FORFEITURE in the amount of seven thousand dollars (\$7,000) for willful and repeated violation of Section 73.49 of the Rules by failing to provide effective locked fences for its antenna towers.

7. IT IS FURTHER ORDERED THAT, pursuant to Section 1.80 of the Rules, within thirty days of the release date of this *NAL*, WCPC Broadcasting Co., Inc. SHALL PAY the full amount of the proposed forfeiture or SHALL FILE a written statement seeking reduction or cancellation of the proposed forfeiture.

8. Payment of the forfeiture may be made by mailing a check or similar instrument, payable to the order of the Federal Communications Commission, to the Forfeiture Collection Section, Finance Branch, Federal Communications Commission, P.O. Box 73482, Chicago, Illinois 60673-7482. The payment should note the *NAL*/Acct. No. and FRN referenced above. Request for payment of the full amount of this *NAL* under an installment plan should be sent to: Chief, Revenue and Receivable

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under Section 503(b) of the Act, provides that “[t]he term ‘willful,’ when used with reference to the commission or omission of any act, means the conscious and deliberate commission or omission of such act, irrespective of any intent to violate any provision of this Act ....” See *Southern California Broadcasting Co.*, 6 FCC Rcd 4387 (1991).

<sup>3</sup> The term “repeated,” when used with reference to the commission or omission of any act, “means the commission or omission of such act more than once or, if such commission or omission is continuous, for more than one day.” 47 U.S.C. § 312(f)(2).

<sup>4</sup> 47 C.F.R. § 1.80(b)(4).

<sup>5</sup> 47 U.S.C. § 503(b)(2)(D).

<sup>6</sup> 47 U.S.C. § 503(b).

<sup>7</sup> 47 C.F.R. §§ 0.111, 0.311, 1.80.

Operations Group, 445 12<sup>th</sup> Street, S.W., Washington, D.C. 20554.<sup>8</sup>

9. The response, if any, must be mailed to Federal Communications Commission, Office of the Secretary, 445 12<sup>th</sup> Street, SW, Washington, DC 20554, Attn: Enforcement Bureau-Technical & Public Safety Division, and MUST INCLUDE THE NAL/Acct. No. referenced above.

10. The Commission will not consider reducing or canceling a forfeiture in response to a claim of inability to pay unless the petitioner submits: (1) federal tax returns for the most recent three-year period; (2) financial statements prepared according to generally accepted accounting practices (“GAAP”); or (3) some other reliable and objective documentation that accurately reflects the petitioner’s current financial status. Any claim of inability to pay must specifically identify the basis for the claim by reference to the financial documentation submitted.

11. IT IS FURTHER ORDERED THAT a copy of this *NAL* shall be sent by regular mail and Certified Mail Return Receipt Requested to WCPC Broadcasting Co., Inc., 1189 Highway 15 North, Houston, Mississippi 38851.

FEDERAL COMMUNICATIONS COMMISSION

James C. Hawkins  
District Director, New Orleans Office  
Enforcement Bureau

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<sup>8</sup> See 47 C.F.R. § 1.1914.